IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL APPLICATION NO. 495 OF 2005
(FOR LEAVE TO APPEAL)

The State of Maharashtra. ..Applicant.

Vs.

Raghuvirsing Rekharam Mahala .. Respondent.

Smt.V.R.Bhonsale, Additional Public Prosecutor for the State.

CORAM : R.M. LODHA AND
R.S. MOHITE, JJ.

DATED : 31st January, 2005

P.C.

Heard Smt.V.R.Bhonsale, the learned Additional Public Prosecutor and perused the judgment dated 9th December, 2002 passed by the Additional Sessions Judge, Raigad in Sessions Case No. 53 of 1999. The accused-respondent stood trial for the offence punishable under section 302 of the Indian Penal Code for having committed murder of Ramkaran Kesarichand Nyol on 12.10.98. There is no direct evidence and the prosecution relied upon the circumstantial evidence. The learned trial Judge considered the evidence produced by the prosecution and held that there was no legal evidence establishing the recovery of knife and cycle based on the disclosure statement of the accused. The learned Additional Public Prosecutor could not indicate that the finding recorded by the learned

trial Judge disbelieving the recovery of knife and cycle suffers from any legal infirmity.

2. Having considered the matter, we are of the view that prosecution has not been able to establish the guilt of the accused-respondent for the offence punishable under section 302 of the Indian Penal Code beyond reasonable doubt and therefore, his acquittal by the Additional Sessions Judge cannot be faulted.

3. Criminal application for leave to appeal is, accordingly, rejected.

(R.M. LODHA, J.)

(R.S. MOHITE, J.)